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County of San Diego

CITIZENS' LAW ENFORCEMENT REVIEW BOARD

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REGULAR MEETING AGENDA

TUESDAY, March 11, 2008, 5:30 P.M.

San Diego County Administration Center

1600 Pacific Highway, Room 302/303, San Diego, 92101

The public portion of the meeting must be concluded in time to allow the public to vacate the building by 6:00 p.m.
(Free parking is available on the street or pay Ace Parking on the south side. Enter at the north entrance.)

Pursuant to Government Code Section 54954.2 the Citizens' Law Enforcement Review Board will conduct a meeting at the above time and place for the purpose of transacting or discussing business as identified on this agenda. Complainants, subject officers, representatives or any member of the public wishing to address the Board on any of today's agenda items should submit a "Request to Speak" form to the Administrative Secretary prior to the commencement of the meeting.

DISABLED ACCESS TO MEETING

A request for a disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting. Any such request must be made to Vickie Ollier at (619) 238-6776 at least 24 hours before the meeting.

1. ROLL CALL

2. MINUTES APPROVAL

- a) Minutes of the February 2008 Regular Meeting (*Attachment A*)

3. EXECUTIVE OFFICER'S REPORT

- a) Open Complaints/Investigations Workload Reports (*Attachment B*)
- b) Form 700 reports due to CLERB office by April 1, 2008

4. NEW BUSINESS

- a) Chief Probation Officer Mack Jenkins: Introduction and Vision for the Probation Department

5. UNFINISHED BUSINESS

- a) N/A

-continued on next page-

6. PUBLIC COMMENTS

This is an opportunity for members of the public to address the Board on any subject matter that is within the Board's jurisdiction. Each speaker should complete and submit a "Request to Speak" form to the Administrative Secretary.

7. CLOSED SESSION

- a) **Officer Discipline Recommendation** - Notice pursuant to Government Code Section 54957 for deliberations regarding consideration of subject officer discipline recommendation.
 - **07-105/ Ames:** (Sustained - Deputy 2)
- b) **Discussion & Consideration of Complaints & Reports:** Pursuant to Government Code Section 54957 to hear complaints or charges brought against Sheriff or Probation employees by a citizen (unless the employee requests a public session).

DEFINITION OF FINDINGS	
Sustained	The evidence supports the allegation and the act or conduct was not justified.
Not Sustained	There was <u>insufficient evidence</u> to either prove or disprove the allegation.
Action Justified	The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.
Unfounded	The evidence shows that the alleged act or conduct did not occur.
Summary Dismissal	The Review Board lacks jurisdiction or the complaint clearly lacks merit.

CASES FOR SUMMARY HEARING

ALLEGATIONS, RECOMMENDED FINDINGS & RATIONALE

07-020

1. Misconduct/Procedure – Deputies 2, 3 and 1 witnessed and failed to prevent non-sworn officers from using excessive force on a group of people.

Recommended Finding: Action Justified

Rationale: Deputies were justified in attempting to preserve the peace and prevent a confrontation over an eviction by ordering a group to stay off the property. No deputies witnessed police officers use pepper spray and batons to remove a group from a house, which was not visible from the deputies' positions. The evidence shows that the deputies' actions were lawful, justified and proper.

2. Misconduct/Truthfulness – Deputies 3 and 1 deceived the complainant and other people regarding an agreement to prevent demolition of residences.

Recommended Finding: Action Justified

Rationale: Parties to an eviction dispute reached an agreement to postpone demolition, ending a standoff involving a large group. The named deputies signed as witnesses to the parties' agreement, denied acting to deceive the complainant's group, and as non-parties had no further role in the agreement. According to media reports, the agreement was rejected and homes subject to eviction were demolished. The evidence shows that the deputies' actions were lawful, justified and proper.

07-034

1. Misconduct/Discourtesy - Deputy 1 made a sexually derogatory comment to the complainant.

Recommended Finding: Unfounded

Rationale: Video showed no interaction between deputies and inmates at the time, date, and location alleged. The evidence showed that the alleged conduct did not occur.

2. Misconduct/Intimidation – Deputy 1 grabbed his crotch while making a sexually derogatory comment.

Recommended Finding: Unfounded

Rationale: Video showed no interaction between deputies and inmates and no deputy grabbing his crotch at the time, date, and location alleged. The evidence showed that the alleged conduct did not occur.

07-041

1. Misconduct/Discourtesy – Deputy 1 told the complainant to “shut the fuck up” and “I’ll do whatever the fuck I want.”

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

2. Excessive Force/Other – Deputy 1 lifted the complainant from the floor by the complainant’s fractured hand.

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

3. Discrimination/Racial – Deputy 1 asked only black inmates to submit their glasses for inspection for possible contraband.

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

4. Misconduct/Discourtesy – Deputy 2 asked the complainant, “Are you dying?” in response to the complainant’s request for medical attention.

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

5. Misconduct/Procedure – Deputy 2 refused to speak with the complainant about the incident involving Deputy 1 or about the complainant’s desire for medical attention for his injured hand.

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

6. False Reporting – Deputy 1 filed an incident report regarding the complainant that contained false statements.

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

7. Misconduct/Procedure – Deputy 2 refused to allow the complainant to present a witness at a hearing on the incident involving Deputy 1.

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

8. Misconduct/Procedure – Deputies 3 and 4 refused to sign the complainant’s grievance forms.

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

9. Misconduct/Discourtesy – Deputy 2 told the complainant, “I don’t know where you think you are, but you don’t have any rights in my jail.”

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

10. Misconduct/Intimidation – Deputy 2 threatened to put the complainant “somewhere where he can bellow all he wanted.”

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

11. Misconduct/Procedure – Deputy 2 told the complainant “I don’t consider this a grievance, just your opinion” and ordered a deputy to throw the complainant’s grievance form in the trash.

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

12. Misconduct/Procedure – Deputy 5, upon being ordered by Deputy 2, threw the complainant’s grievance form in the trash.

Recommended Finding: Summary Dismissal

Rationale: The complainant withdrew his complaint.

07-042

1. Excessive Force/Drawn Firearm – Deputies 1, 2 and 3 drew their weapons and pointed them at the complainant and his minor children during a detention.

Recommended Finding: Action Justified

Rationale: Deputies 1, 2 and 3 responded to what was broadcast as a commercial burglary in progress. In accordance with officer safety precautions and high-risk vehicle stop training, they approached the vehicle with their handguns pointing at all the occupants. Deputies treated all the occupants in the vehicle equally, regardless of gender, age or physical stature. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

2. Excessive Force/Tight Handcuffs – Deputies 1, 2 and 3 placed handcuffs on the complainant and his two minor children, tightening the handcuffs on his son to the point of pain.

Recommended Finding: Not Sustained

Rationale: None of the responding deputies recalled the complainant or his son complaining of handcuffs being too tight. There is insufficient evidence to either prove or disprove the allegation.

3. False Arrest – Deputies 1, 2 and 3 detained the complainant and his minor children, placed them in separate vehicles, and interviewed them for a period of thirty minutes.

Recommended Finding: Action Justified

Rationale: Deputy 2 detained the occupants of the vehicle in separate vehicles to prevent witnesses from corroborating their statements while investigating whether a commercial burglary had occurred. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

4. Misconduct/Procedure – Deputy 2 twice told the complainant while detaining him that he was going to shoot the complainant.

Recommended Finding: Action Justified

Rationale: According to Addendum F, Use of Force, Deputy 2 first warned the complainant that force would be used if there was not compliance. According to training received at the academy, Deputy 2 admittedly gave all the occupants of the vehicle the same instructions, “Do what I say or you will be shot.” The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

5. Misconduct/Procedure – Deputy 2 twice told the complainant’s 14-year-old son while detaining him that he was going to shoot him.

Recommended Finding: Action Justified

Rationale: In accordance with training and in anticipation of danger, Deputy 2 admittedly warned all vehicle occupants that force would be used if there was no compliance with his commands. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

6. Misconduct/Procedure – Deputy 1 failed to take the complainant’s concerns seriously by downplaying the incident stating, “You don’t know what some nine-year-olds are capable of doing.”

Recommended Finding: Not Sustained

Rationale: None of the responding deputies recalled making or hearing this statement. However, Deputy 1 recalled explaining to the complainant that for safety deputies must ensure that individuals who are contacted in response to a report of a crime in progress are not armed with a weapon, and that juveniles have carried weapons. There is insufficient evidence to prove or disprove the allegation.

7. Misconduct/Procedure – Deputy 5 misinformed the complainant that there was not going to be a deputy’s report prepared about the incident.

Recommended Finding: Not Sustained

Rationale: Deputy 5 denied that he told the complainant that no report would be written. Deputy 5 stated that he had not seen one and that he could not locate one at that time in the station files. Deputy 5 also stated that he informed the complainant that he could contact the involved deputies to see if a report had been filed. There is insufficient evidence to prove or disprove the allegation.

8. Misconduct/Procedure – Deputy 1 called the complainant to obtain his children’s names despite the fact that the complainant was informed that no incident report would be completed.

Recommended Finding: Action Justified

Rationale: Department policy requires all uses of force to be documented in a report. Deputy 1 attempted to obtain the children’s names from the complainant so that he could complete the report. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

9. Misconduct/Discourtesy – Deputy 1 hung up on the complainant after the complainant questioned the deputy’s need for the names of his children.

Recommended Finding: Not Sustained

Rationale: Deputy 1 denied hanging up on the complainant and stated that the complainant hung up on him. There is insufficient evidence to either prove or disprove the allegation.

10. Misconduct/Procedure – Deputy 4 called the complainant’s ex-wife inquiring about the complainant’s custody rights for his children, referring to the incident as “the arrest” of the complainant.

Recommended Finding: Action Justified

Rationale: Deputy 4 stated in her SERF response that she contacted the complainant’s ex-wife to inquire about the children’s names and visitation rights but denied referring to the incident as “the arrest” because the complainant was not arrested. The evidence shows the alleged act or conduct did occur but was lawful, justified and proper.

07-119

1. Misconduct/Procedure – Deputies 1 and/or 2 failed to arrest Carol Flores and Carl Witsole after they broke into the complainant’s trailer while he was incarcerated.

Recommended Finding: Action Justified

Rationale: The suspects entered the complainant’s residence after his arrest for sexually assaulting his girlfriend, one of the suspects. The woman told deputies who responded to a burglary call at the residence that she had lived there for two weeks but had broke in because she did not have a key. Because the complainant was unavailable to provide additional information, deputies asked the suspect and her companion to leave, which they did. After evaluating the circumstances, deputies were unable to determine whether the suspects had committed any crime. The deputies’ actions were lawful, justified and proper.

07-125

1. Death Investigation/Suicide - Deputy 1 discovered inmate Phelps hanging in his cell.

Recommended Finding: Action Justified

Rationale: There was neither a complaint nor any evidence of misconduct by Sheriff’s deputies in this case. Upon finding Phelps during a routine check, Deputy 1 immediately took appropriate action, summoned assistance, and participated in life-saving measures. Phelps was transported to a hospital, where he died two days later. The evidence showed that the actions of Deputy 1 and other deputies who responded were justified and in compliance with applicable policies and procedures.

08-016

1. Misconduct/Procedure – Unidentified deputies failed to secure the complainant’s property during his arrest.

Recommended Finding: Summary Dismissal

Rationale: The investigation showed that no Sheriff’s deputies were involved in the arrest. The review Board does not have jurisdiction over the subject matter of the complaint

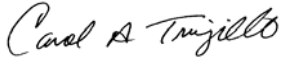
8. COMMUNICATIONS (Attachment C)

The following news articles or correspondence are attached to this agenda:

Article Title

CHP buys tasers for ‘option short of lethal force’ (San Diego, CA)
Sheriff’s Department urges drivers to heed new laws (San Diego, CA)

Deadly force not an issue for deputies in 2007 (San Diego, CA)
LAPD can't police itself, audit charges (Los Angeles, CA)
Cameras Turn Lens on Police Activities (Baltimore, MD)
O.C.'s acting sheriff calls for jail shake-up (Orange County, CA)
Local Stakeholder Identify Top Public Safety Issues for the San Diego Region (SANDAG)
O.C. officials OK sheriff's watchdog (Orange County, CA)
Some crimes now reportable via Sheriff's Web site (San Diego, CA)
Finding the Middle Ground: A collaborative Approach to Oversight in Los Angeles County (Los Angeles, CA)



CAROL A. TRUJILLO
Executive Officer

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Attachments